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OFFICE OF PETITIONS

In re Application of :
Noyes, et al. :
Application No. 10/762,191 : **ON PETITION**
Filed: January 20, 2004 :
Attorney Docket No. 81686/7442 :
For: CONTROL VALVES :

This is a decision on the petition filed May 2, 2006 (certificate of mailing date April 28, 2006) under 37 CFR 1.47(a).

The petition must be treated **(1)** under 37 CFR 1.48(a), as a request to amend the inventive entity by the addition of Leslie L. Briley, Jr., **(2)** under 37 CFR 1.183, as a request of the waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added as an inventor (Briley) as to his lack of deceptive intent in not being named as an inventor from the start, and **(3)** under 37 CFR 1.47, to accept a declaration that lacks the signature of Briley, as required by 37 CFR 1.63.

The petition under 37 CFR 1.48(a) is **dismissed**.

The constructive petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) is **dismissed**.

The petition under 37 CFR 1.47 is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT.** The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR 1.48, 1.183, and 1.47."

There are currently two joint inventors. Douglas B. Noyes and Alexander David Glew. Petitioner appears to be attempting to add an inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record lack compliance with items (1), (2), and (4).

With respect to (1) above, each person being added must present *his* statement of lack of deceptive intent, or, if *his* statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioner may seek waiver under 37 CFR 1.183 of that part of the regulation. See MPEP 201.03(B). Petitioner must show that the inability to obtain the statement from Briley is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. A request for waiver must be accompanied by a \$400.00 petition fee.

With respect to (2) above, no declaration has been filed that lists all three inventors and contains signatures from all of the inventors OR from the available inventors with a grantable petition under 37 CFR 1.47(a) covering the lack of Mr. Briley's signature.

With respect to (4) above, the explicit written consent of any existing assignee is not included.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As a preliminary matter, the petition lacks the \$200.00 petition fee. The merits of the petition will not be addressed until the Rule 47 petition fee of \$200.00 is paid.


Further correspondence with respect to this matter should be addressed as follows:

By mail:
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By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
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By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries pertaining to this decision should be directed to the undersigned at (571) 272-3230.


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